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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,007	11/17/2003	Wen Hsiang Yueh	MR1957-799	9412

4586 7590 09/21/2006

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EXAMINER

NGUYEN, TUAN DUC

ART UNIT PAPER NUMBER

2614

DATE MAILED: 09/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/713,007	<b>Applicant(s)</b> YUEH, WEN HSIANG	
	<b>Examiner</b> Tuan D. Nguyen	<b>Art Unit</b> 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 1 and 10-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 1 recites the limitation "cover body" in page 6 line 3. There is insufficient antecedent basis for this limitation in the claim.  
  
Claim 10 recites the limitation "cover body" in page 6 line 3. There is insufficient antecedent basis for this limitation in the claim.  
  
Claim 10 recites the limitation "said ear cuff" in page 6 line 15. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:  
  
A person shall be entitled to a patent unless –  
  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
5. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by  
  
US patent number 5,729,605 (Bobisuthi et al).

Regarding claim 1, Bobisuthi et al discloses a modified earphone structure (figures 1-11) having a closable opening, said earphone structure being formed by connecting two cover bodies with a headband, said cover body comprising: a first shell (104, 402) at least having a first opening and forming a first connection portion; and a second shell (102, 404) at least having a second opening and forming a second connection portion, said second opening corresponding to said first opening, said second connection portion being retained within said first connection portion, and a loudspeaker (412) being arranged in said second shell; whereby said first shell is turned through said first connection portion to connect said first opening with said second opening or close said second opening with said first shell.

Regarding claims 2, 4, 6 and 8, Bobisuthi et al also discloses a plurality of through holes and a plurality of sound holes (see figure 4a items 406 and 408a).

Regarding claims 3 and 5, Bobisuthi et al further discloses wherein said first connection portion has a hook and a protruding groove and wherein said second connection portion has a concave groove (see figures 5-9).

Regarding claim 7, Bobisuthi et al also shows wherein the diameter of said sound hole is smaller than that of said through hole.(see figure 4).

Regarding claim 9, Bobisuthi et al further discloses wherein a soft cushion (401) is provided at an edge of said second shell.

***Allowable Subject Matter***

6. Claims 10-22 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan D. Nguyen whose telephone number is (571) 272-8163. The examiner can normally be reached on M-F 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curt Kuntz can be reached on (571) 272-7499.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2614

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TDN  
9/18/06

  
MELUR RAMAKRISHNAIAH  
PRIMARY EXAMINER